10/29/72 Paul, When Jim was here a couple of days ago, later than agreed, as usual, we did not have the time required for his visit, also as usual. So, before we got down to work on the day habeas corpus papers, I raised the question of your letter. He had just gotten it. He agrees with what I suggested, perhaps feeling so more than I do because as soon as I told him what I had said, that you wait as they ask, he agreed with what for him is vehemence. He told me what he had not earlier (we always have too much to talk about when we are together), that the government, not just Justice, is giving this answer to applicants under FOIA, asking them to await the court of appeals decision in my case. He mentioned one of the regulatory agencies, and told me who had told him, but I don't remember. Considering the nature of changes in the Supreme Court in particular, I believe mine is the strongest case that can be brought to test the misuse of the "investigatory files" exemption. The CA seems to be having its own troubles with it, judging from the time it is taking to reach a decision. We had the impression that the two more conservative judges were rather our way. And there is enough excess in the record to turn decent people of any political persuasion on. We anticipated this would goto the Supreme Court from the beginning and because Bud said he would carry it there, I have let him have his own way, pretty much. (We are both now sorry that I didn't insist on the approach of my original draft of the complaint, but I agreed to his simplified approach and a good argument can be made for it, so I'm not criticizing or complaining.) If I win I think it will be interesting to see if they yield to you prior to SC decision. I can't imagine them not going there. Jim was here the day of the Nichols decision. I have not seen it in the papers but a correspondent friend told me the SC refused to take his appeal. Jim agrees this is the best thing that could have happened to us because his is such a botched case, a really bad one. He had little chance of winning and if they'd taken it, there would have been a bad precedent. I already have others for different testing of this provision, one where not Justice invoked because the files had been given to Justice. There was indictment, this stuff was not relevant to the charges, and after indictment I was refused under the investigatory exemption. I have filed appeal. Not JFK stuff. We should discuss yours further because there is an obvious law-enforcement purpose possible. This is why I suggested that when you go back to them, ask what law? Whatever they answer, you are then in better shape. If they say Internal Security, the only one I can believe they might, we can think that through. It would meet the requirements of the exemption, but I think you would be able to counter because HUD is dead. But precedent would be important in such an approach, and today it does not exist. Another reason for patience. Best, Hk